

REMARKS

Claims 1, 2, 8-14, 22, 23 and 25 are pending in this application. Reconsideration is requested based on the following remarks.

Claim Rejections - 35 U.S.C. § 101:

Claim 23 was rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter. The rejection is traversed. Claim 23 recites a "computer program instructing a computer to operate as an estimated price providing apparatus for an automobile technology." Claim 23 is thus combined with, at least, the statutory physical structure of a computer, contrary to the assertion in the Office Action at page 3, paragraph 6. Furthermore, claim 23 produces, at least, the useful, concrete, and tangible result of an "estimated price providing apparatus for an automobile technology," contrary to the assertion in the Office Action at page 3, paragraph 6. Claim 23 is thus submitted be directed to statutory subject matter even according to the requirements made in the Office Action.

In any case, 35 U.S.C. § 101 provides,

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Furthermore, as provided in State Street Bank and Trust Co. v. Signature Financial Group Inc., 149 F. 3d 1368, 1375 (Fed.Circ. 1998),

Today, we hold that the transformation of data, representing discrete dollar amounts, by a machine through a series of mathematical calculations into a final share price, constitutes a practical application of a mathematical algorithm, formula, or calculation, because it produces "a useful, concrete and tangible result"-a final share price momentarily fixed for recording and reporting purposes and even accepted and relied upon by regulatory authorities and in subsequent trades. State Street.

Since claim 23 does produce a useful, concrete, tangible result as discussed above, claim 23 is submitted to be directed to statutory subject matter within the provisions of 35 U.S.C. § 101.

Furthermore, as provided in State Street,

The plain and unambiguous meaning of § 101 is that any invention falling within one of the four stated categories of statutory subject matter may be patented, provided it meets the other requirements for patentability set forth in Title 35, i.e., those found in §§ 102, 103, and 112, ¶12.

Since claim 23 does fall within one of the four stated categories of statutory subject matter, i.e. either the process, the machine, or the manufacture category, claim 23 is directed to statutory subject matter within the provisions of 35 U.S.C. § 101.

In particular, claim 23 recites a computer program. Since a computer program is, at least, a process, claims 23 must fall at least within the "process" category of statutory subject matter provided for by 35 U.S.C. § 101. Furthermore, since claim 23 recites at least an "estimated price providing apparatus," claim 23 must fall within the purview of the technological arts with respect to machines and manufactures.

Furthermore, as provided in State Street,

The repetitive use of the expansive term "any" in § 101 shows Congress's intent not to place any restrictions on the subject matter for which a patent may be obtained beyond those specifically recited in § 101. Indeed, the Supreme Court has acknowledged that Congress intended § 101 to extend to "anything under the sun that is made by man." Diamond v. Chakrabarty, 447 U.S. 303, 309 (1980); see also Diamond v. Diehr, 450 U.S. 175, 182 (1981).

Since Congress intended § 101 to extend to "anything under the sun that is made by man", and claim 23 is directed to a thing, i.e. a computer program, that is under the sun and made by man, claim 23 must be directed to statutory subject matter within the provisions of 35 U.S.C. § 101.

Finally, as provided in State Street,

Thus, it is improper to read limitations into § 101 on the subject matter that may be patented where the legislative history indicates that Congress clearly did not intend such limitations. See Chakrabarty, 447 U.S. at 308 ("We have also cautioned that courts 'should not read into the patent laws limitations and conditions which the legislature has not expressed.'" (citations omitted)).

Since it is improper to read limitations into § 101 on the subject matter that may be patented where the legislative history indicates that Congress clearly did not intend such limitations, the further requirements listed at page 3 in paragraph 6 of the Office Action, i.e. "To be statutory, a computer program must be: (1) coupled with or combined with some statutory physical structure, *and* (2) produce or effect some useful, concrete, tangible result," are unlawful and ought to be withdrawn. Claim 23 is thus submitted to be directed to statutory subject matter. Withdrawal of the rejection of claim 23 is earnestly solicited.

Claim Rejections - 35 U.S.C. § 102:

Claims 1, 2, 8, 10-14, 22, 23 and 25 were rejected under 35 U.S.C. § 102(e) as anticipated by Wolfe et al. US 6,282,517 (hereinafter "Wolfe"). The rejection is traversed.

Claim 1 recites,

"allowing a user of an information terminal connected to said estimated price providing apparatus via a communication line to select an automobile of desired specifications in accordance with the respective predetermined automobile specifications."

Wolfe neither teaches, discloses, nor suggests "allowing a user of an information terminal connected to said estimated price providing apparatus via a communication line to select an automobile of desired specifications in accordance with the respective predetermined automobile specifications," as recited in claim 1. Wolfe, rather, is written for the benefit of the seller, from the seller's perspective. Wolfe is apparently bothered by the inefficiencies caused by buyers behaving in a dilettante manner, as described at column 1, lines 43-49,

In a conventional vehicle sales scenario, a potential automobile purchaser initiates a purchasing process by visiting a dealership. The customer may make several preliminary visits before making his or her purchasing intent known to the dealer. Until the purchasing intent is revealed, the dealer acts inefficiently in attempting to consummate a customer purchase.

"Allowing a user of an information terminal connected to said estimated price providing apparatus via a communication line to select an automobile of desired specifications in accordance with the respective predetermined automobile specifications," as recited in claim 1, on the other hand, would simply encourage a buyer to waste more of the seller's time by liberating them somewhat from the seller's grasp. The buyer, in particular, would receive an estimated price without having to make his or her purchasing intent known to the dealer. This, from Wolfe's point of view, is inefficient.

As Wolfe would have it, on the other hand, as described at column 2, lines 45-60,

When a potential buyer submits either a new vehicle purchase request or a used vehicle purchase request, the Data Center system invokes program modules such as, by way of example, a buyer access module, to create an appropriate purchase request record. Moreover, the Data Center system identifies and notifies an appropriate seller of the purchase request. In one embodiment, the purchase request record is stored in the appropriate seller's exclusive database region. In another embodiment, the seller record may advantageously point to the purchase request record. Thus, the seller immediately becomes aware of the purchase request upon the creation of the purchase request record. In an alternative embodiment, the Data Center system may identify and notify one or a

plurality of sellers of the purchase request. Here, the purchase request record may be stored in each identified seller's exclusive database region.

Thus, in Wolfe, the buyer must request a purchase, i.e. be ready to buy, before they are assigned to a dealer. This is to be contrasted with claim 1, which recites, "allowing a user of an information terminal connected to said estimated price providing apparatus via a communication line to select an automobile of desired specifications in accordance with the respective predetermined automobile specifications."

Claim 1 recites further,

"transmitting the manufacturer's suggested retail price for an automobile of desired specifications selected by said customize means to the information terminal."

Wolfe neither teaches, discloses, nor suggests "transmitting the manufacturer's suggested retail price for an automobile of desired specifications selected by said customize means to the information terminal," as recited in claim 1. Wolfe, rather, mentions no manufacturer's suggested retail price at all, let alone transmitting a "manufacturer's suggested retail price for an automobile of desired specifications," as recited in claim 1.

Fig. 16, in particular, shows no manufacturer's suggested retail price, contrary to the implication in the Office Action, and item 410 in Fig. 4 is a vehicle estimated price, not a "manufacturer's suggested retail price for an automobile of desired specifications," as recited in claim 1. A manufacturer would not need to estimate their own price. Finally, column 8, line 60 to column 9, line 29 of Wolfe pertains to records of aftermarket equipment, not a vehicle at all, let alone a "manufacturer's suggested retail price for an automobile of desired specifications," contrary to the assertion at page 8, paragraph 12 of the Office Action.

At column 8, lines 60-67, for example, Wolfe describes,

In one embodiment, each new vehicle model record may in turn point to a list of aftermarket product records. The aftermarket product records identify additional products offered for sale, by the dealer, for the specific new vehicle model. The aftermarket product record may be comprised of the name of an aftermarket product, a retail price for the product, a discounted price for the product, and possibly a photo showing the product.

Thus, in Wolfe, a new vehicle model record may in turn point to a list of aftermarket product records, not a "manufacturer's suggested retail price for an automobile of desired specifications," as recited in claim 1.

Similarly, at column 9, lines 1-13, Wolfe describes,

In yet another embodiment, each new vehicle model record may further point to a vehicle model specifics record and a vehicle model accessories record. The vehicle model specifics record may identify the vehicle model specifics such as available transmission type, available number of doors, and the like. The vehicle model accessories record may identify the accessories such as leather seats, power windows, and the like, available for the vehicle model. In an alternative embodiment, the vehicle model specifics record contents and the vehicle model accessories record contents may be appropriately displayed in a web page. The buyer may then specify the desired vehicle specifics and the desired vehicle accessories.

Thus, in Wolfe, each new vehicle model record may further point to a vehicle model specifics record and a vehicle model accessories record, neither of which are described as a “manufacturer’s suggested retail price for an automobile of desired specifications,” as recited in claim 1.

Finally, at column 9, lines 14-29, Wolfe describes,

In one embodiment, a new vehicle database may be comprised of a list of new vehicle records which may be stored in the Data Center storage medium 106. Each new vehicle model available for purchase through the Data Center system is associated with a new vehicle record. FIG. 4 illustrates a new vehicle record suitable for use with the invention. Seven fields are illustrated comprising a vehicle make 402, vehicle model 404, vehicle year 406, vehicle type 408, vehicle estimated price 410, vehicle features 412, and vehicle photo 414. It should be understood that appropriate fields may be added and a field may contain additional sub-fields. For example, the vehicle features field 412 may advantageously be comprised of a standard features field and an optional features field. In one embodiment, the vehicle type field 408 may specify whether the vehicle is a passenger car, a luxury car, a sports car, or the like.

Thus, in Wolfe, a new vehicle model record includes a vehicle estimated price 410, not a “manufacturer’s suggested retail price for an automobile of desired specifications,” as recited in claim 1. Vehicle estimated price 410 has nothing to do with any desired specifications. Vehicle estimated price 410, rather, is merely an estimated price for a generic vehicle, as shown by the presence of vehicle features field 412 may advantageously be comprised of a standard features field and an optional features field. Thus, vehicle estimated price 410 is provided before any optional equipment has even been selected, or the buyer’s preferences are known. This is to be contrasted with claim 1, which recites a “manufacturer’s suggested retail price for an automobile of desired specifications.”

Claim 1 recites further,

“allowing the user to select the automobile dealer by operations from the information terminal after said first price providing means transmits the manufacturer’s suggested retail price.”

Wolfe neither teaches, discloses, nor suggests “allowing the user to select the automobile dealer by operations from the information terminal after said first price providing means transmits the manufacturer’s suggested retail price,” as recited in claim 1. In Wolfe, rather, the buyer can only specify a dealer or dealers to whom the *purchase request* will be sent. The Data Center *system*, not the user, will then identify the dealers offering for sale vehicles potentially matching the specified vehicle description in the specified geographic region, contrary to the assertion at page 9, paragraph 13 of the Office Action.

In particular, as described at column 13, lines 8-17,

In an alternative embodiment, the buyer may specify one or a plurality of dealers to receive the purchase request. For example, the buyer may simply specify one or a plurality of dealers to receive the purchase request. In another embodiment, the buyer may specify a geographic region and a vehicle description. The Data Center system may then identify the dealers offering for sale vehicles potentially matching the specified vehicle description in the specified geographic region. Then, every identified dealer may receive the purchase request.

Thus, in Wolfe, the Data Center system may then identify the dealers offering for sale vehicles potentially matching the specified vehicle description in the specified geographic region. This is to be contrasted with claim 1, which recites “allowing the user to select the automobile dealer by operations from the information terminal after said first price providing means transmits the manufacturer’s suggested retail price.”

Finally, claim 1 recites,

“transmitting an estimated price of the automobile dealer selected by said dealer select means for the automobile of desired specifications when the automobile dealer is selected by said dealer select means.”

Wolfe neither teaches, discloses, nor suggests “transmitting an estimated price of the automobile dealer selected by said dealer select means for the automobile of desired specifications when the automobile dealer is selected by said dealer select means,” as recited in claim 1. The only estimated price in Wolfe, rather, Vehicle estimated price 410, has nothing to do with any desired specifications, as discussed above.

Wolfe, furthermore, describes a new vehicle purchase request record at column 11, lines 20-24, not “transmitting an estimated price of the automobile dealer selected by said dealer

select means for the automobile of desired specifications when the automobile dealer is selected by said dealer select means,” contrary to the assertion at page 9, paragraph 14 of the Office Action. In particular, column 11, lines 20-24 describes,

Thus, for example, the buyer information field may include sub-fields for name, address, zip code, e-mail address, phone numbers, and contact preference. The new vehicle purchase request record may advantageously be stored in the Data Center storage medium 106.

Thus, in Wolfe, the buyer information field may include sub-fields for name, address, zip code, e-mail address, phone numbers, and contact preference. This is to be contrasted with claim 1, which recites, “transmitting an estimated price of the automobile dealer selected by said dealer select means for the automobile of desired specifications when the automobile dealer is selected by said dealer select means.” Claim 1 is submitted to be allowable. Withdrawal of the rejection of claim 1 is earnestly solicited.

Claims 2, 8, and 10-14 depend from claim 1 and add further distinguishing elements. Claims 2, 8, and 10-14 are thus also submitted to be allowable. Withdrawal of the rejection of claims 2, 8, and 10-14 is also earnestly solicited.

Claim 22:

Claim 22 recites,

“allowing a user of an information terminal that is connected to the estimated price providing apparatus via a communication line to select an automobile of desired specifications in accordance with predetermined choices by operations from the information terminal.”

Wolfe neither teaches, discloses, nor suggests “allowing a user of an information terminal that is connected to the estimated price providing apparatus via a communication line to select an automobile of desired specifications in accordance with predetermined choices by operations from the information terminal,” as discussed above with respect to the rejection of claim 1.

Claim 22 recites further,

“transmitting the automobile manufacturer’s suggested retail price for the selected automobile of desired specifications from the first data base to the information terminal.”

Wolfe neither teaches, discloses, nor suggests “transmitting the automobile manufacturer’s suggested retail price for the selected automobile of desired specifications from

the first data base to the information terminal," as discussed above with respect to the rejection of claim 1.

Claim 22 recites further,

"allowing the user to select an automobile dealer by operations from the information terminal after the automobile manufacturer's suggested retail price is transmitted."

Wolfe neither teaches, discloses, nor suggests "allowing the user to select an automobile dealer by operations from the information terminal after the automobile manufacturer's suggested retail price is transmitted," as discussed above with respect to the rejection of claim 1.

Finally, claim 22 recites,

"transmitting an estimated price of the selected automobile dealer for the automobile of desired specifications and the desired specifications, when the automobile dealer is selected, to the information terminal in a name for the selected automobile dealer."

Wolfe neither teaches, discloses, nor suggests "transmitting an estimated price of the selected automobile dealer for the automobile of desired specifications and the desired specifications, when the automobile dealer is selected, to the information terminal in a name for the selected automobile dealer," as discussed above with respect to the rejection of claim 1. Claim 22 is submitted to be allowable, for at least those reasons discussed above with respect to the rejection of claim 1. Withdrawal of the rejection of claim 22 is earnestly solicited.

Claim 23:

Claim 23 recites,

"allowing a user of an information terminal connected to said estimated price providing apparatus via a communication line to select an automobile of desired specifications in accordance with the respective predetermined automobile specifications by operations from the information terminal."

Wolfe neither teaches, discloses, nor suggests "allowing a user of an information terminal connected to said estimated price providing apparatus via a communication line to select an automobile of desired specifications in accordance with the respective predetermined automobile specifications by operations from the information terminal," as discussed above with respect to the rejection of claim 1.

Claim 23 recites further,

"transmitting the manufacturer's suggested retail price for an automobile of desired specifications selected by said customize means to the information terminal."

Wolfe neither teaches, discloses, nor suggests "transmitting the manufacturer's suggested retail price for an automobile of desired specifications selected by said customize means to the information terminal," as discussed above with respect to the rejection of claim 1.

Claim 23 recites further,

"allowing the user to select an automobile dealer by operations from the information terminal after said first price providing means transmits the manufacturer's suggested retail price."

Wolfe neither teaches, discloses, nor suggests "allowing the user to select an automobile dealer by operations from the information terminal after said first price providing means transmits the manufacturer's suggested retail price," as discussed above with respect to the rejection of claim 1.

Finally, claim 23 recites,

"transmitting an estimated price of the automobile dealer selected by said dealer select means for the automobile of desired specifications when the automobile dealer is selected by said dealer select means."

Wolfe neither teaches, discloses, nor suggests "transmitting an estimated price of the automobile dealer selected by said dealer select means for the automobile of desired specifications when the automobile dealer is selected by said dealer select means," as discussed above with respect to the rejection of claim 1. Claim 23 is submitted to be allowable, for at least those reasons discussed above with respect to the rejection of claim 1. Withdrawal of the rejection of claim 23 is earnestly solicited.

Claim 25:

Claim 25 recites,

"allowing a user of an information terminal connected to said estimated price providing apparatus via a communication line to select an automobile of desired specifications in accordance with the respective predetermined automobile specifications by operations from the information terminal."

Wolfe neither teaches, discloses, nor suggests "allowing a user of an information terminal connected to said estimated price providing apparatus via a communication line to

select an automobile of desired specifications in accordance with the respective predetermined automobile specifications by operations from the information terminal,” as discussed above with respect to the rejection of claim 1.

Claim 25 recites further,

“transmitting the manufacturer’s suggested retail price for an automobile of desired specifications selected by said customize means to the information terminal.”

Wolfe neither teaches, discloses, nor suggests “transmitting the manufacturer’s suggested retail price for an automobile of desired specifications selected by said customize means to the information terminal,” as discussed above with respect to the rejection of claim 1.

Claim 25 recites further,

“allowing the user to select an automobile dealer by operations from the information terminal after said first price providing means transmits the manufacturer’s suggested retail price.”

Wolfe neither teaches, discloses, nor suggests “allowing the user to select an automobile dealer by operations from the information terminal after said first price providing means transmits the manufacturer’s suggested retail price,” as discussed above with respect to the rejection of claim 1.

Finally, claim 25 recites,

“transmitting an estimated price of the automobile dealer selected by said dealer select means for the automobile of desired specifications when the automobile dealer is selected by said dealer select means.”

Wolfe neither teaches, discloses, nor suggests “transmitting an estimated price of the automobile dealer selected by said dealer select means for the automobile of desired specifications when the automobile dealer is selected by said dealer select means,” as discussed above with respect to the rejection of claim 1. Claim 25 is submitted to be allowable, for at least those reasons discussed above with respect to the rejection of claim 1. Withdrawal of the rejection of claim 25 is earnestly solicited.

Claim Rejections - 35 U.S.C. § 103:

Claims 9 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Wolfe. The rejection is traversed. Reconsideration is earnestly solicited.

Claim 9 depends from claim 1 and adds further distinguishing elements. Wolfe neither teaches, discloses, nor suggests, "allowing a user of an information terminal connected to said estimated price providing apparatus via a communication line to select an automobile of desired specifications in accordance with the respective predetermined automobile specifications," "transmitting the manufacturer's suggested retail price for an automobile of desired specifications selected by said customize means to the information terminal," "allowing the user to select the automobile dealer by operations from the information terminal after said first price providing means transmits the manufacturer's suggested retail price," or "transmitting an estimated price of the automobile dealer selected by said dealer select means for the automobile of desired specifications when the automobile dealer is selected by said dealer select means," as discussed above with respect to the rejection of claim 1. Claim 9 is thus also submitted to be allowable, for at least those reasons discussed above with respect to the rejection of claim 1. Withdrawal of the rejection of claim 9 is also earnestly solicited.

Conclusion:

Accordingly, in view of the reasons given above, it is submitted that all of claims 1, 2, 8-14, 22, 23 and 25 are allowable over the cited references. There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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Date: 03 NO 05

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